

## **REMARKS/ARGUMENTS**

### **SPECIFICATION**

Line 3 on page 4, line 2 on page 7, line 12 on page 16, and line 23 on page 16 are amended to correct typographical errors. The first paragraph added at the end of page 7 (beginning on line 7) relates to subject matter disclosed in SUMMARY OF THE INVENTION, lines 16-28 on page 3, while the second paragraph relates to discussions in BACKGROUND OF THE INVENTION, lines 25, 26 on page 1 in conjunction with lines 26-28 on page 3 in SUMMARY OF THE INVENTION. Line 29 on page 8 is amended to conform to disclosure about Figure 13 in line 26 on page 13. Line 28 on page 13 and line 20 on page 15 are amended to reflect drawing scale changes made to corrected drawings mailed to USPTO on 09/13/01 in response to Office's NOTICE TO FILE CORRECTED APPLICATION PAPERS mailed on 03/13/2001.

### **CLAIMS**

In the Office Action mailed April 17, 2008, Examiner rejected claims 1-5 and 9-12 under 35 U.S.C. 112(b) as being anticipated by Xandria Collection 2000 wherein a device, "The Power House", is disclosed that includes a distally disposed "phallic" portion that contains a vibrator and an attached loop portion that has an opening and a controller to operate the vibrator. Claims 6-8 and 13-18 were objected to as being dependent upon a rejected base claim. Claims 43-52 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Claims 32-42 were previously withdrawn pursuant to 37 CFR 1.142(b). Claims 19-31 were allowed.

#### **Claim 1**

Examiner submitted a print ad of "The Power House" from the Xandria brochure that revealed a photo (or drawing) of The Power House and a single paragraph of ad text. The photo depicts a circular "loop portion" that comprises a polar array of eight inwardly protruding tabs that obstruct approximately 75% of the loop portion's opening. Of significance, the ad text refers to the loop portion as "the ring". Applicant refers to Attachment A wherein the first five of thirteen definitions of the word "ring" taken from the Merriam-Webster online dictionary are disclosed. The first three describe objects or shapes that are circular. Of the remaining definitions, including those not shown, some use the words "circle" or "circular" (or infer such a form), while others do not. These other definitions would not be applicable to objects such as The Power House and

Applicant's invention and are therefore deemed irrelevant. Since the loop portion of The Power House is substantially circular, the ad copy is accurate in its use of the word "ring".

For additional reference Applicant now refers to Attachment B which is a recent ad for The Power House copied from the Xandria.com website. The device in this ad is the same as that in the print ad submitted by Examiner. The text copy of this ad again identifies the loop portion as "the ring". The ad also includes the additional parameter that "the ring" is 1-3/8 inch diameter which confirms its circular shape. Note also that on the Xandria website ad The Power House is listed under the category "Cock Rings" and sub-category "Vibrating Cock Rings". Applicant discusses both the utilities and shortcomings of such devices in detail in BACKGROUND OF THE INVENTION in Applicant's Application. For further edification concerning such rings Applicant refers to Attachment C, which is a dissertation on cock rings from Wikipedia.com. Here, the form, function and hazards of cock rings disclosed are virtually the same as those in Applicant's review, i.e. that they are constrictive devices devised to block blood flow in an erect penis thereby causing engorgement. Typically such devices are circular in shape and it should be noted that, based on ads offering rigid cock rings in various sizes, those having a 1-3/8 inch diameter opening such as The Power House are considered relatively small. The fact that The Power House is a "rigid" cock ring is established below in discussion of the photos shown in Attachment D. It should also be noted that those skilled in the art are aware that cock rings are commonly referred to and advertised simply as "rings". Since the Xandria ads for The Power House depict a circular ring and refer to the device as "the ring" it is understandable those skilled in the art would presume it is a cock ring and intended for use as such without anticipating other uses. Applicant points out that nowhere in Applicant's Application is the word "ring" used in conjunction with the shape of the loop portion of Applicant's invention.

Applicant purchased The Power House from Xandria.com and refers now to photos of the device that are shown in Attachment D. Photo 1 shows the circular form of the "loop portion" and also the polar array of inwardly protruding tabs within the ring's opening.

Photo 2 shows the device and a measuring tape confirming the ad's claim that the opening is 1-3/8 inch diameter (4.32 inch circumference). Additionally, Photo 2 reveals that an unobstructed space defined by the tab ends is approximately 5/8 inch diameter.

Photo 3 shows The Power House installed on a plastic cylinder having a diameter slightly less than 1-1/2 inch (the reading on the calipers is 1.476). This equates to a 4.64 inch circumference

which represents an erect penis substantially smaller than the mean erect penis girth of 5.0 inch according to the Kinsey study referenced in Applicant's Application. In this case the 1-3/8 inch diameter ring was extremely tight and required substantial force to install. It is unimaginable the ring could be placed on an erect penis, even of this relatively small size. To do so would certainly be extremely painful. The tabs deflected in the direction of insertion which thereby precluded movement in the opposite direction, at least without twisting and/or extreme force. From a physics standpoint it is understandable that the geometry of the tabs would enable sliding an appropriately sized cylindrical object within the opening in one direction and then inhibit sliding in the opposite direction. This phenomenon was quite apparent on the rigid, hard-surfaced cylinders tested by Applicant. It is logical that if the ring were placed on an erect penis the tabs would "dig in" to its compliant surface such that resistance to movement in the direction opposite that of insertion would be even greater.

Photo 4 shows The Power House with a 1-1/4 inch PVC coupling having an outside diameter of 1.65 inch (5.09 inch circumference) placed over the ring opening. The coupling was too large to engage The Power House opening without risk of breaking the device. Note that the coupling circumference is only slightly larger than the mean circumference of 5.0 inch of an erect penis according to the Kinsey study.

Photo 5 shows The Power House with a portion of the ring removed exposing an embedded wire. The wire prevents expansion of the ring and overcomes any inherent elastomeric properties of the base material. Due to the wire, the ring is rendered substantially "rigid" and "non-resilient" in that it will not expand and it will not return to its original shape after being deformed. By default, The Power House is just another rigid, constrictive cock ring. Although the wire is not mentioned or shown in either Xandria ad, it was referred to by a "reviewer" of the product on the website ad.

Photo 6 shows the loop portion deformed further demonstrating the non-resilient nature of its structure due to the embedded wire.

Since The Power House "loop portion" is circular in shape and non-resilient it would understandably impart circumferential constriction to an erect penis having a girth larger than the 1-3/8" diameter opening, which would most frequently be the case. Actually, since the tabs partially obstruct the opening, constriction would likely occur on even smaller penises. Although the ads state "the guy puts the ring around his erection" those skilled in the art would realize that would be an unlikely feat for about 90% of men. That instead, as commonly recommended (and by

necessity), rigid rings of this size would most likely be placed on the penis while flaccid. Then, after erection, the device would become constrictive, substantially immobile, and not removable until the erection subsides. Another shortcoming of The Power House and other prior-art cock rings is that the surface contacting the penis is relatively small. This causes high pressure and consequential discomfort. The Power House tabs somewhat alleviate this phenomenon on penises smaller than 1-3/8 inch diameter. However, on larger penises, (which is most often the case) the tabs deflect and the narrow, non-resilient edge of the ring's 1-3/8 inch diameter opening uncomfortably embeds in the penis. Contrarily, Applicant teaches an expandable, non-constrictive loop portion having a large cross section and large contact surface for the comfort of the user.

The phrase "those skilled in the art" is often used with respect to patent issues. One would assume it refers to individuals that have expertise, experience, knowledge and/or background in the field of a respective invention. Those skilled in the art would be cognizant of Applicant's foregoing remarks and the information of Applicant's Attachments. Applicant contends that those skilled in the art would not "anticipate" Applicant's invention after viewing either the ad submitted by Examiner or the Xandria website ad shown in Attachment B, or The Power House device itself. Also, in viewing the ads those skilled in the art would immediately recognize The Power House as just another vibrating, rigid, constrictive cock ring having similar size, form, function, and health risks as the many others on the market.

There is nothing in The Power House ads suggesting or anticipating a resilient, elongate, comfortable, slideable, loop portion that, by design, can be placed on and removed from an erect penis of virtually any size, as is the case with Applicant's invention. Although Applicant does not use the word "resilient" anywhere in the Application, resilience is inferred with respect to the loop portion by the many references that it is made of an elastomeric material. Nor is there anything in the ads suggesting that the loop portion automatically adapts to various sized erect penises without causing constriction while at the same time imparting vibrations to the penis, as does Applicant's invention. Nor anything suggesting the device can be slidably maintained in a position where it continuously contacts the woman's vulva during intercourse, as can Applicant's invention. Applicant's invention has the advantage of all these attributes while The Power House has none. Another obvious shortcoming of constrictive rings such as The Power House is that since they are normally positioned at the base of the penis they tend to snag the man's pubic hairs during removal, which can be quite painful. This also frequently occurs with condoms when they are removed

because the “ring” on the condom is also somewhat constrictive. Although not discussed in Applicant’s Application, this undesirable phenomenon is very unlikely with respect to Applicant’s invention since the loop portion is relatively loose-fitting and comprises a relatively large cross-section along its length as conferred on page 11, lines 10-15 in Applicant’s Application.

The Power House ads plainly reveal a device comprising a loop portion having a circular opening. When any cylindrical object is placed in any circular opening the fit is either tight (constrictive), loose, or perfect, depending on the size of the cylinder. Accordingly, due to its size and circular form, the loop portion of The Power House simply cannot adapt to engage cylinders (penises) of various sizes in the non-constrictive manner of the loop portions taught by Applicant. To all intents and purposes, The Power House is the antithesis of Applicant’s invention and its loop portion, in particular, unquestionably represents a contradiction, both in form and function, to the teachings of Applicant. The fact is, Applicant’s entire Application is directed at teaching away from circular loop portions such as The Power House comprises. And in no way do The Power House ads suggest an alternate embodiment or utility that might represent Applicant’s invention. Nor do they reference a patent, with its associated specification and claims, nor any other form of disclosure that would suggest or “anticipate” an embodiment or utility other than that represented.

Although, as Examiner points out, The Power House comprises elements that are germane with respect to Applicant’s invention, that fact alone certainly does not preclude invention in the form of useful, novel embodiments of any of the elements. Applicant realizes there are many prior-art vibrating devices such as The Power House that encircle the penis for use during sexual activities. However, none employ a novel, elongate, loose-fitting, slidable loop portion that comfortably adapts and imparts vibrations to penises of various sizes without injury risk to the user such as the loop portion disclosed by Applicant. Applicant believes any modification to The Power House loop portion that would facilitate these advantages of Applicant’s invention would purely be hindsight only after the revelations of Applicant’s teachings.

In accordance with the above and the associated Attachments A, B, C and D, and to further distinguish Applicant’s invention from The Power House and other prior-art, and also to address Examiner’s rejection under 35 U.S.C. 112(b), Applicant has amended Claim 1. The device of amended Claim 1 comprises an elongate, deformable, resilient, vibrating loop portion that is both non-constrictive and slideable on an erect penis having a mean girth of five inches, while imparting vibrations thereto. Collectively, these are attributes not intrinsic with loop portions of The Power

House and other prior-art devices. The size and shape of the loop portion are of utmost importance with respect to Applicant's invention and its objectives since its use relates to objects of finite sizes. It is also size and shape that establish the objectives and utility of loop portions of prior-art devices. Applicant believes amended Claim 1 effectively addresses size and shape in such manner as to categorically differentiate Applicant's invention from prior-art devices.

Applicant notes that amended Claim 1 infers "resilience" with respect to the loop portion. As mentioned above, Applicant feels this inference is appropriate as virtually all references to the loop portion in Applicant's Application assert it is made of an elastomeric material.

In view of the forgoing remarks, Applicant feels the amended Claim 1 satisfies the conditions of 35 U.S.C. 112(b) and is now in condition for allowance.

#### Claims 2-18

Claims 2-18 are believed to be patentable in combination with the features of amended Claim 1.

#### Claims 19, 20 and 23-31

Claims 19, 20 and 23-31 were previously allowed in Office Action mailed on 04/17/08.

#### Claims 21, 22

Claims 21, 22 are revised to encompass embodiments where the location of the groove(s) and rib(s) are interchangeable which does not affect the spirit and scope of the claims as would be obvious to those skilled in the art.

#### Claims 32-42

Claims 32-42 were previously withdrawn by election filed on 11/08/05.

#### Claim 43

Examiner points out Claim 43 fails to recite what is retained by the retaining means. Applicant notes that Claims 43-52 relate to an embodiment discussed in Applicant's Application on in a paragraph beginning on page 17, line 20 and ending on page 18, line 17 with respect to Drawing Figures 33-35. For clarification, and to further define Applicant's invention, Applicant has amended Claim 43 and believes the amended Claim adequately addresses Examiner's cause for rejection and is now in condition for allowance.

#### Claims 44-46, 48 and 50-52

Claims 44-46, 48 and 50-52 are believed patentable in combination with the features of amended Claim 43.

Claims 47 and 49

Please cancel Claims 47 and 49.

Claim 53

Claim 53 relates to an embodiment discussed in Applicant's Application on page 18, lines 2-12. Claim 53 is believed to be patentable in combination with the features of amended Claim 43.

Claim 54

Claim 54 has been added to further define the invention. Claim 54 relates to embodiments discussed in Description of the Preferred Embodiments in the paragraph beginning on page 10, line 26 and ending on page 11, line 14 and the paragraph beginning on page 13, line 26 and ending on page 14, line 14.

Claim 55

Claim 55 relates to matter disclosed in Description of the Preferred Embodiments on page 11, lines 11-14 and page 14, lines 15-17.

Claim 56

Claim 56 relates to tubular embodiments of the loop portion discussed in Description of the Preferred Embodiments beginning on page 14, line 15 and ending on page 15, line 28 with respect to Figures 17-25.

Claim 57

Claim 57 relates to matter repeatedly disclosed in Applicant's Application.

Claim 58

Claim 58 relates to matter disclosed in Description of the Preferred Embodiments beginning on page 15, line 29 and ending on page 17, line 19 with respect to Figures 26-32.

Summary

Applicant submits that the claims, as amended, fully distinguish Applicant's invention from prior-art and are now allowable.

Applicant believes he has demonstrated his invention is non-obvious with respect to the teachings and objectives of prior-art, and in particular, Xandria's The Power House. Further, that prior-art devices either include features that would act as obstacles with respect to Applicant's teachings or, lack features essential to the utility of Applicant's invention. Applicant feels the teachings, objectives and embodiments disclosed in his Application are quite unique and are not even remotely contemplated by prior-art devices.

Accordingly, it is respectfully requested that the subject Application be allowed and passed to issue.

In the event Examiner finds cause for rejection of any Claims, for the purpose of possible resolution Applicant respectfully requests a telephone interview with Examiner before Examiner submits a second Office Action.

Respectfully submitted,

Dated: July 15, 2008

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Dated: July 16, 2008

Phyllis D. Maska

Phyllis D. Maska (Applicant)

Attachments:

Attachment A: Definition of word "ring"

Attachment B: Web ad for "The Power House"

Attachment C: Wikipedia.com dissertation on "Cock Rings"

Attachment D: Photos of "The Power House"

Enclosures:

Amended Drawing Sheet 4/11

Petition Requesting change of inventorship



**ATTACHMENT A**

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# ring

Entries 1 to 10 of 44.

Next 10

ring[1,noun]

ring[2,verb]

ring[3,verb]

ring[4,noun]

annual ring

benzene ring

brass ring

coffee ring

double-ring

D ring

Main Entry: <sup>1</sup>**ring** 4)

Pronunciation: \ˈrɪŋ\

Function: *noun*

Etymology: Middle English, from Old English *hring*; akin to Old High German *hring* ring, Old Church Slavic *krъgŭ* circle

Date: before 12th century

**1:** a circular band for holding, connecting, hanging, pulling, packing, or sealing <a key *ring*> <a towel *ring*>

**2:** a circlet usually of precious metal worn especially on the finger

**3 a:** a circular line, figure, or object <smoke *ring*> **b:** an encircling arrangement <a *ring* of suburbs> **c:** a circular or spiral course —often used figuratively in plural in the phrase *run rings around* to describe surpassing an opponent decisively

**4 a (1):** an often circular space especially for exhibitions or competitions; *especially* : such a space at a circus **(2):** a structure containing such a ring **b:** a square enclosure in which a fighting contest (as a boxing or wrestling match) takes place

**5:** a band of small objects revolving around a planet (as Saturn) and composed of dust and icy or rocky fragments

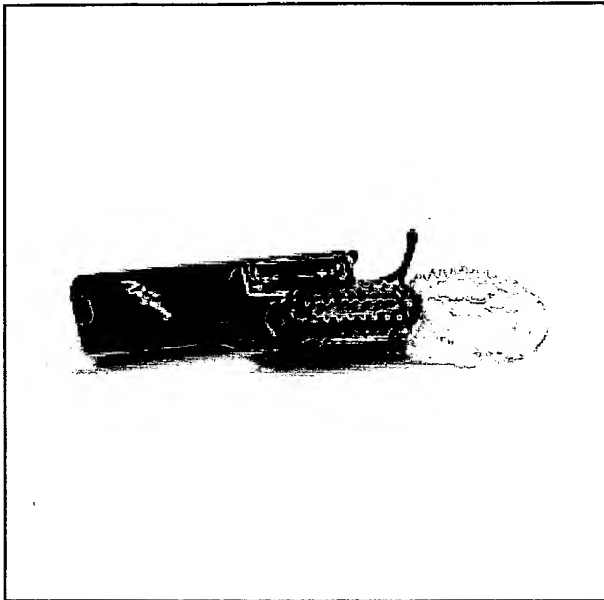
## **ATTACHMENT B**

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<http://www.xandria.com/sex-toys/toys-for-men/cock-rings/vibrating-cock-rings/the-power-house-id-394.html>

- Sex Toys
- » Toys for Men
- » Cock Rings
- » Vibrating Cock Rings

### **The Power House**



**Regular Price: \$34.95**

Product #: 394

Customer Rating: ★★☆☆

[Rate This Product!](#)

#### **Look who's in the house!**

This one's for all you guys and gals who like to party all night long! First, the guy puts the ring around his erection. Then, adjust the sexy vibrations and his shaft will jump with desire. As you make love, the vibrating unit touches her clitoris and gives you both the most incredible orgasmic sensations you've ever felt! 1-3/8" diameter is a perfect fit on any man. So powerful the multi-speed vibrations require three AA batteries (not included).

ATTACHMENT C  
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# Cock ring

From Wikipedia, the free encyclopedia <http://en.wikipedia.org/wiki/Cockring>

(Redirected from Cocking)

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This article or section includes a [list of references](#) or [external links](#), but its sources remain unclear because it lacks [in-text citations](#).

You can [improve](#) this article by introducing more precise citations.

A cock ring or cockring is a ring that is placed around a man's [penis](#), usually at the base, primarily to slow the flow of blood from the erect penile tissue, thus maintaining [erection](#) for longer. Cock rings can be worn around just the penis or penis and scrotum, or just the scrotum alone, though this is usually designated as a [testicle cuff](#). Rings can be made of a variety of different materials, most commonly leather, rubber, or silicone, though nylon and metal are also used either as the main component or part of the closure. Confusingly, the term cock ring is sometimes used as a synonym for a [Prince Albert piercing](#), a piercing of the penis that is often, though not exclusively, a metal ring.

A man may wear a cock ring because he has [erectile dysfunction](#) (ED) or otherwise wants to prolong erection, as a [sex toy](#) because he likes the particular sensation of tightness and extreme engorgement that wearing one provides, or as jewelry, simply for the appearance. When used for ED, a [vacuum pump](#) is used to produce an erection in spite of [vascular](#) or [nerve](#) damage, and the ring slid off the pump's cylinder onto the base of the penis to maintain the erection.

Some models include a protruding clitoral stimulator, designed to tickle the [clitoris](#), [vulva](#) or [anus](#) during sex. Others, such as the [Vibrating ring](#), vibrate, either vibrating the ring itself, or in a popular 'Dolphin' variant using two removable bullet vibrators to provide stimulation to the testicles and clitoris. Some cock rings have [vibrators](#) attached which can be worn to stimulate the [scrotum](#) or [perineum](#) or a partner during [sexual intercourse](#). Another variation is an inflatable cock ring for added control of adjustment.

A triple cock ring or triple crown is a cock ring that has additional rings for restraining the testicles. In [orgasm](#), the testicles usually retract towards the body before ejaculation. A triple crown changes and intensifies the sensation of orgasm by forcing the testicles to stay away from the body.

Cock rings that are too tight, or worn for too long can be dangerous: this may cause [priapism](#), a [medical emergency](#) which, if not treated promptly, can result in severe and permanent damage, including penile [gangrene](#) which can result in the destruction of the penis. Rings for ED are invariably supplied with the instruction that they should not be

ATTACHMENT C

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left on for more than 30 minutes. Falling asleep with a ring on is a particular danger. This may lead to temporary or permanent nerve damage. Numbness in the glans penis, penis becoming cold or penis becoming white are the typical signs that a cock ring has been worn for a bit too long. It must be removed immediately then and medical advice should be sought. <sup>[citation needed]</sup>

Elastic, stretchy, cock rings are removed by stretching them and pulling them off the penis, over the head, which can be difficult. Others have a quick-release mechanism allowing them to be easily removed without the need to do this. Some (not for ED) are designed to allow limited blood return, such as by hard beads which cause the ring to roll back and forth during use, increasing circulation.

When used for extreme or total ED, it must be possible to fit the ring onto the erect penis immediately after an erection has been produced by the pump; this practically mandates the use of very flexible rings which can be fitted on the outside of the pump's cylinder, and slid onto the penis without removing it from the cylinder when erection has been maintained.

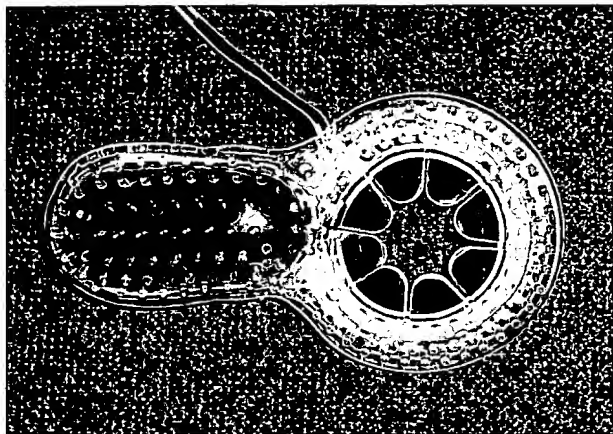
Some underwear for men features a pouch with an internal fabric/elastic cock ring, or "c-ring", that either slides along the penis and encircles the base of the testicles or, alternately, simply snaps around the base of the testicles to snugly--but not in a constricting way--attach the pouch to the genitals. While this type of pouch permits the wearer to "go backless," c-ring pouches can be attached to either a thong or traditional jockstrap.

Some men enjoy using cock rings for masturbation, as wearing of this sex toy contributes to better erection and delays orgasm, thus it intensifies orgasmic sensations. Also vibrating cock rings deliver a great range of very pleasurable vibrations that enhance enjoyment.

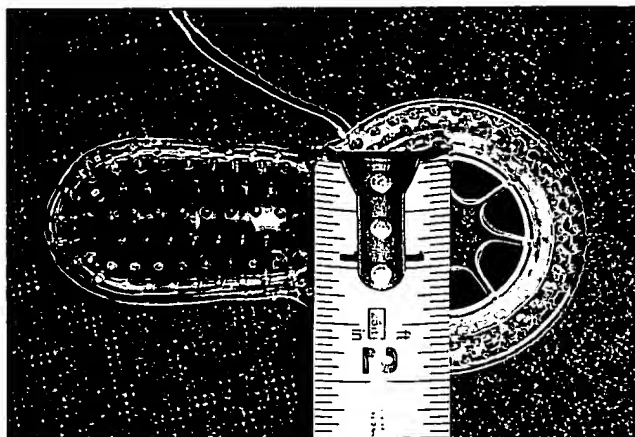
Many women find rings with vibrator attachments provide clitoral stimulation that is needed for achieving orgasm. Cock ring users should keep in mind that any pain, discomfort or feeling of coldness in genitals is a signal to take the cock ring off. Cock rings must not be used by those who have cardiovascular problems, by diabetics and by those who take any blood-thinning medications.

**ATTACHMENT D**

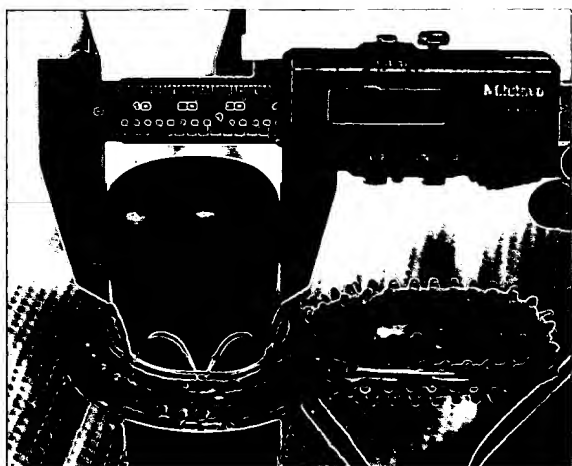
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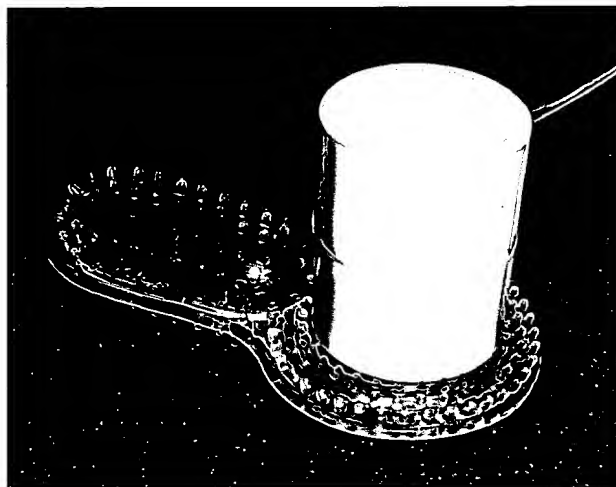
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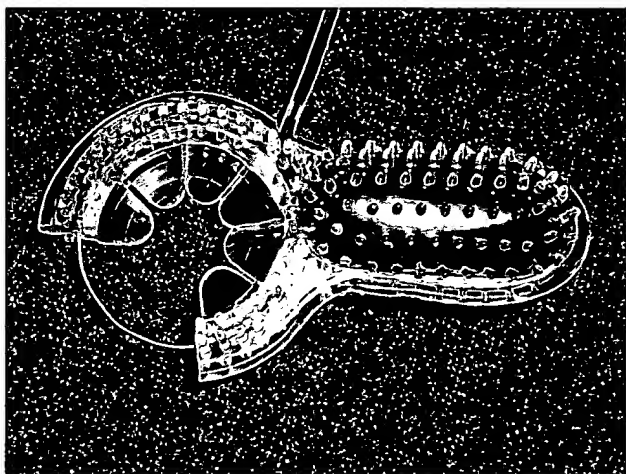
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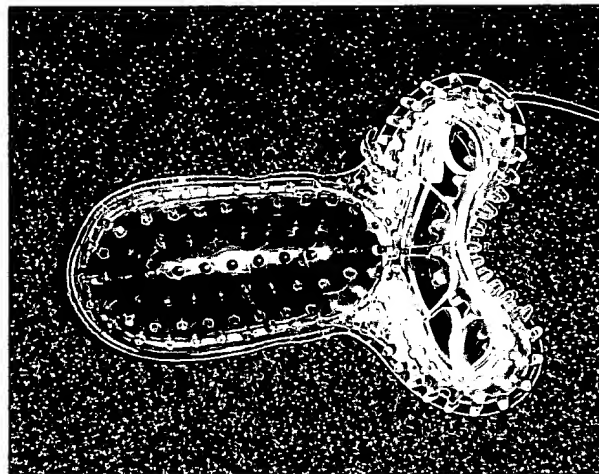
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5.



6.